

## REMARKS

Claims 1, 3-5, and 11-15 are presently pending in the case. Claims 1, 3, 4, 11, and 15 have been amended. The amendments are supported by the specification and claims as originally filed. For example, the amendments to claim 1 are supported at least at page 7 lines 17-25. Claims 2, 6-10, and 16-20 have been cancelled because of redundancies or to expedite prosecution of the present application. Applicant reserves the right to pursue the claims in a continuation application.

Reconsideration of the present case in view of the above amendments and the remarks herein is requested.

### **Claim rejections under 35 USC 112**

The Examiner rejected claims 1-20 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner's objection to the language in claim 1 is believed to be overcome by the above amendments.

### **Claim rejections under 35 USC 103(a)**

The Examiner rejected claims 1-20 under 35 USC 103(a) as being unpatentable over WO 98/31346 to Edwards et al (hereinafter Edwards et al) in view of US Patent 5,875,776 to Vaghefi (hereinafter Vaghefi), US Patent 6,143,276 to Unger (hereinafter Unger), and US Patent 5,284,133 to Burns et al (hereinafter Burns et al). The rejection is traversed.

Edwards et al, Vaghefi, Unger, and Burns et al do not render claims 1, 3-5, and 11-15. To sustain a section 103 rejection, the references relied upon, must disclose or suggest each and every element of the claimed invention. Claim 1, for example, is to a method for the inhalation of a dry powder drug, the method comprising: loading a dry powder drug composition into a passive dry powder inhaler having a resistance of from 0.01 to 0.30 (cmH<sub>2</sub>O)<sup>1/2</sup>/Lmin<sup>-1</sup>; and inhaling the drug composition from the inhaler, wherein the emitted dose is at least 60% for flow rates from 10 to 60 liters per minute. Edwards et al does not disclose the emitted dose from an inhaler for flow rates over the stated range. Vaghefi, Unger and Burns et al do not disclose

passive inhalers. Accordingly, the references do not disclose or suggest the features presently claimed. Claims 3-5 and 11-15 depend from claim 1 and are allowable over Edwards et al, Vaghefi, Unger, and Burns et al for at least the same reasons as claim 1.

#### **Information Disclosure Statement**

Applicant is filing under separate cover an information disclosure statement in compliance with MPEP section 609. Indication of consideration of the references provided is requested.

**Conclusion**

The claims are allowable for the reasons given above. Thus, the Examiner is respectfully requested to reconsider the present rejections and allow the presently pending claims. Should the Examiner have any questions, the Examiner is requested to call the undersigned at the number given below.

Respectfully submitted,

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